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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re Devin C., a Person Coming Under
the Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

Devin C.,

Defendant and Appellant.

F071808

(Tulare Super. Ct. No. JD068689)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Tulare County. Juliet L.
Boccone, Judge.

Karriem Baker, under appointment by the Court of Appeal, for Defendant and
Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant Attorney
General, Michael P. Farrell, Assistant Attorney General, Stephen G. Herndon and Harry
Joseph Colombo, Deputy Attorneys General, for Plaintiff and Respondent.

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*Before Gomes, Acting P.J., Peña, J., and Smith, J.

Minor Devin C. was found to have committed vandalism (Pen. Code, § 594, subd. (b)(1)).¹ The offense is a “wobbler” that can be punished as either a felony or a misdemeanor, depending on the value of the property damage. (*Ibid.*; *Robert L. v. Superior Court* (2003) 30 Cal.4th 894, 906, fn. 14.) A court has broad discretion under Penal Code section 17, subdivision (b), to reduce a wobbler offense to a misdemeanor. (*People v. Superior Court (Alvarez)* (1997) 14 Cal.4th 968, 977.) In juvenile cases, the juvenile court is required to expressly declare the offense a felony or a misdemeanor. (Welf. & Inst. Code, § 702.)²

On appeal, Devin contends, and the People agree, that the juvenile court failed to expressly declare his offense a felony or a misdemeanor at either the jurisdictional hearing or the dispositional hearing, as required by Welfare and Institutions Code section 702. The parties further agree, and we concur, that the matter must be remanded to the juvenile court for an express declaration. (*In re Manzy W.* (1997) 14 Cal.4th 1199, 1204-1211.)

¹ Penal Code section 594, subdivision (b)(1) provides: “If the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more, vandalism is punishable by imprisonment pursuant to subdivision (h) of [Penal Code] Section 1170 or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.”

² Welfare and Institutions Code section 702 provides that if a minor “is found to have committed an offense which would in the case of an adult be punishable alternatively as a felony or a misdemeanor, the court shall declare the offense to be a misdemeanor or felony.”

DISPOSITION

The matter is remanded to the juvenile court for the court to expressly declare Devin's offense a felony or a misdemeanor. In all other respects, the juvenile court's orders are affirmed.